

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

ECOLAB Inc., and NALCO COMPANY LLC
d/b/a Nalco Water, an Ecolab Company and/or
Nalco Water,

Plaintiffs,

v.

JESSICA GRAILER,

Defendant.

Case No.: 3:23-cv-00102-wmc

DECLARATION OF JESSICA GRAILER

I, Jessica Grailer, declare under penalty of perjury that the following is true and correct:

1. I am the defendant in this case. I reviewed the materials filed publicly by Plaintiffs Ecolab Inc. and Nalco Company LLC, and I make this declaration based on my personal knowledge.
2. I was an employee at Nalco from 2012 until January 2023. (I understand that my former employer had different names over time, but I generally called it “Nalco.”)
3. Just before my resignation from Nalco in January 2023, I had access to various electronic communication devices and email accounts. I am not a highly sophisticated technology user, but to the best of my knowledge the devices and email accounts I had access included: one Nalco laptop, two Nalco iPhones, one personal iPhone (which I used for both work and personal purposes), one USB drive, one Nalco email address, and one personal Gmail email address. I also was paying for iCloud storage for my personal iPhone. Details about each device and account are listed below.

Nalco Laptop

4. I used my Nalco laptop for both my work and my personal computer needs while I was a Nalco employee. On the personal side, I used my Nalco laptop, among other things, to manage my personal financial information and passwords.

5. During my Nalco employment, I used my Nalco laptop to access my Nalco email, the laptop's hard drive, and what I knew as "OneDrive," a shared drive for Nalco employees. I also used my Nalco laptop to use my personal Gmail once I set up a personal Gmail account.

6. On January 10, 2023, I met with Nalco employee Justin Springer to give him my Nalco laptop, along with my Nalco cell phones, Nalco car, and Nalco credit cards.

7. Attached as Exhibit A are screenshots of text messages I exchanged with Justin Springer from January 9 to January 13, 2023. The text messages on the day I turned over the Nalco laptop (and other items) are date stamped January 10, 2023.

8. Attached as Exhibit B is a screenshot of text messages I exchanged with my manager Josh Gallart from January 8 to January 10, 2023. I texted Josh Gallart that I had turned everything over to Justin Springer on January 10, 2023.

9. To the best of my knowledge, I turned over the Nalco laptop in the condition it was in when I used it. My intention was to leave all Nalco internal and customer-related documents as they were on the laptop so that my manager and teammates could use them as needed to service my prior customers. To the best of my memory, I did not alter or delete information from the Nalco laptop prior to turning it over, aside from a Word document containing my personal passwords, a few other files containing my personal financial information, and possibly some personal photos if they had gotten onto the laptop.

Nalco iPhones

10. I had two Nalco-issued cellphones when I resigned from Nalco: an older iPhone that I continued to use through the end of my employment, and a newer iPhone that was issued to me as an intended replacement for my older Nalco iPhone but that I never fully transitioned to and put to little or no use. I will refer to the two phones as my “older Nalco iPhone” and “newer Nalco iPhone” in this declaration.

11. I returned both Nalco iPhones to Justin Springer on January 10, 2023.

12. I factory reset the older Nalco iPhone shortly before I turned it over to Justin. I did not believe that doing that would create any problems for Nalco.

13. I factory reset the older Nalco iPhone for two reasons. First, I used the older Nalco iPhone for personal purposes as well as work purposes, and the phone contained a great deal of personal information including financial account information, passwords, and photos (some of which were very private in nature). I believed it would not be appropriate to return this phone with such personal information left on it.

14. Second, to my knowledge the phone did not have any information on it that would be useful to Nalco. In terms of work purposes, I used the phone to access my Nalco email account, to take photos that I would upload to my Nalco laptop, and to exchange phone calls and text messages with Nalco customers and other Nalco employees. To the best of my knowledge, all the Nalco-related information on the phone (aside from text messages and call records) also was available on my Nalco laptop or in my Nalco email.

15. I do not recall being told by anyone at Nalco that I should not factory reset my phone before returning it.

16. I returned the newer Nalco iPhone as-is. I did not knowingly factory reset that phone or alter any of the information before turning it over to Justin.

17. On January 13, 2023, Justin texted me to ask for the password for “that old iPhone,” saying “I want to make sure I wipe and reset it before sending it on.” (See Exhibit A.)

18. I responded to Justin saying “I thought I reset it?! I’m terrible with phones.” I provided him the password and texted “Thank you for clearing it” (See Exhibit A.)

19. Justin then texted me a video that appears to show him trying to factory reset one of my Nalco iPhones. (See Exhibit A.) The phone in the video appears to be my newer Nalco iPhone.

20. Attached as Exhibit C is the video that Justin texted me on January 13, 2023.

Personal iPhone

21. I have had a personal cell phone since approximately around 2018 (though I am not sure that is the correct year). Before then, I was using my Nalco phone for my personal phone needs.

22. Currently, my personal phone is an iPhone 12 mini. I believe I purchased it around 2021 (but again, I am not certain it was that year).

23. My personal iPhone contains a great deal of personal information including financial account information, passwords, and photos (some of which are very private in nature).

24. During my employment at Nalco, I had access to my Nalco email address on my personal iPhone. I also used my personal iPhone to call and text with other Nalco employees, including my manager, Josh Galliard, as well as some Nalco customers.

25. To the best of my memory, I do not recall anyone at Nalco telling me or other employees that it was a problem to use personal phones for work purposes. My manager Josh

Gallart switched to contacting me primarily on my personal iPhone after I got it, instead of the Nalco iPhone that I also was using (my older Nalco iPhone). I also openly used both my older Nalco iPhone and my personal iPhone for work purposes in front of my colleagues. To my understanding, many of my other colleagues also were using personal phones for work purposes.

26. To the best of my ability, I am keeping the contents of my personal iPhone the same as they were when I left my Nalco employment. My understanding is that a professional third party will be extracting information from my personal iPhone so that it will be preserved for this case, and I will follow all legal directives with regard to my personal iPhone.

USB Drive

27. Some time ago (I think several years ago), I got a USB drive that I used to print documents at print shops like FedEx, OfficeMax, or Office Depot. I also previously used other USB drives for the same purpose.

28. To the best of my memory, I do not recall anyone at Nalco telling me or other employees not to use USB drives to print documents at print shops, or not to use them for other purposes. I tried to use my Nalco credit card to cover the print shop expenses, so that I would not have to pay for them personally, and the charges were reviewed and approved by my manager Josh Gallart.

29. To the best of my recollection, the work materials that I took to print shops were customer presentations that also were available on my Nalco laptop, Nalco email, or in Nalco's shared drive. I would copy the preexisting files into the USB just so I could connect them to the printers at the print shops. Periodically, I also would delete files that I had already printed and did not need anymore.

30. I believe I no longer have the USB drive. I do not specifically remember disposing of it, but I planned to dispose of it since it was old, it had nothing on it that I thought could be useful to anyone, and I did not intend to use it after leaving Nalco. I have looked through my belongings and believe that I did dispose of it and do not have it in my possession.

31. I do not remember being asked by anyone at Nalco to turn over any USB drives that I owned or used when I left my Nalco employment.

32. I would have turned over my USB drive if I had been asked for it, but it did not occur to me that it would be of any use to Nalco. Again, I simply used the USB to take copies of files to print shops when I needed to make paper copies.

Nalco Email Address

33. I received a Nalco email address when I started working at Nalco in 2012. At some point, my Nalco email address became an “@ecolab.com” address, but I will still call it my “Nalco” email address here.

34. From early on, I used my Nalco email address as both my work and personal email address.

35. I continued to use my Nalco email address until Nalco shut off my access to it.

36. On Sunday, January 8, 2023, when responding to a text from my manager Josh Galliard, I told him that I had accepted another job offer. Josh called me right away to talk about it. During that call, Josh agreed to an offer I made to send him an email about customer action items that would need to be completed. I did that on the evening of January 8, 2023, using my Nalco laptop and my Nalco email address. During the same call, Josh also agreed to my offer to forward him emails from customers with other action items that would need to be completed.

37. I continued to have access to my Nalco email address after I returned my Nalco phones and laptop on January 10, 2023. I talked to Josh about this, and Josh told me that I would continue to have access until I was terminated. During the time I continued to have access, I checked my email, including to see if I had received emails that I should forward to Josh.

38. On January 15, 2023, I also accessed my Nalco email (using my personal iPhone 12 mini) to search for and to forward to my personal Gmail three emails from Adidas and American Eagle relating to clothing items that I wanted to return. I have attached screenshots of the top of those emails (as I forwarded them to my Gmail on January 15) as Exhibit D.

39. According to a paystub that I have attached (with redactions) as Exhibit E, my last day of my employment with Nalco was January 18, 2023. To the best of my memory, that is also approximately when Nalco shut off my access to my Nalco email account.

Personal Gmail Address

40. I created a personal Gmail account approximately in mid-2022. Before that, I used my Nalco email address as both my work and personal email account.

41. To the best of my ability, I am working to keep my Gmail account unchanged, and not to allow emails to be deleted. My understanding is that a professional third party is extracting information from my Gmail so that it will be preserved for this case, and I will follow all legal directives with regard to my Gmail.

iCloud Storage

42. Sometime after I purchased a personal cell phone, I started paying \$0.99 per month for iCloud storage on my iPhone. I did this so that my personal iPhone would not run out of storage space.

43. Until I left Nalco, I was using my Nalco email address (my “@ecolab.com” address) as my Apple ID. As I said above, I was not using a separate personal email address until 2022.

44. When I left Nalco and was losing my Nalco email address, I changed my Apple ID to my personal Gmail address on my personal iPhone.

45. I do not know exactly what information exists in the iCloud storage I have been paying for. To the best of my ability, however, I am trying not to make any changes to my iCloud storage. My understanding is that a professional third party is extracting information from my iCloud storage so that it will be preserved for this case, and I will follow all legal directives with regard to my iCloud storage.

New ChemTreat Devices

46. I began working for ChemTreat on January 23, 2023. I now have a ChemTreat-issued work phone, a ChemTreat-issued laptop, and a ChemTreat email address. I returned my Nalco-issued devices and lost access to my Nalco email account before I received my ChemTreat-issued devices and began using my ChemTreat email account.

47. My understanding is that the ChemTreat-issued devices and email address belong to ChemTreat. I would not provide others with access to my ChemTreat phone, laptop, or email without ChemTreat’s permission.

Executed this 8 day of March, 2023.



Jessica Grailer